

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

THE ESTATE OF MICHAEL SCHWARTZ,)
and BRENDA FISCHER)

Plaintiffs,)
vs.)

ASSISTED RECOVERY CENTERS OF)
AMERICA, LLC, et al.)

Defendants.)

Cause No.: 4:16-CV-00673 MFG

**PLAINTIFFS' MOTION TO VACATE PLAINTIFFS' VOLUNTARY DISMISSAL
WITHOUT PREJUDICE AGAINST DEFENDANT SHERYL CASTRO ONLY
(DOCUMENT 56), AND THE COURT'S ORDER OF SEPTEMBER 14, 2016
(DOCUMENT 57)**

COMES NOW, counsel for Plaintiffs, and hereby requests leave to withdraw their voluntary dismissal without prejudice (Document 56) and the Court's Order of September 14, 2016 (Document 57), granting the voluntary dismissal. In support thereof, Plaintiffs state as follows:

1. On September 9, 2016, the parties appeared before this Court regarding a scheduled Rule 16 conference and other motions pending before the Court.

2. An issue arose regarding the Court's ability to exercise jurisdiction while Defendant Sheryl Castro remained a party-defendant, but had not consented to the case proceeding before Magistrate Bodenhausen.

3. On September 13, 2016, Plaintiffs filed a voluntary dismissal without prejudice as to Defendant Sheryl Castro only to cure the jurisdictional issue before Judge Bodenhausen. Plaintiffs were unaware of issues related to Sheryl Castro's bankruptcy and the availability of insurance until the following day, September 14, 2016, which require her to remain a party-defendant.

4. Five (5) minutes before filing this motion, literally, the Court entered an Order granting the Motion to Voluntarily Dismiss Sheryl Castro.

5. Plaintiffs now request this Court to vacate the Order granting Plaintiffs' Voluntary Dismissal of Defendant Sheryl Castro. Plaintiffs do withdraw their Voluntary Dismissal of Defendant Sheryl Castro.

WHEREFORE, for the foregoing reasons, Plaintiffs respectfully request this Court to vacate the Order granting Plaintiffs' Voluntary Dismissal of Defendant Sheryl Castro, and Plaintiffs do withdraw their Voluntary Dismissal of Defendant Sheryl Castro.

Respectfully submitted,
THE BAGSBY LAW FIRM

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CERTIFICATE OF SERVICE

A copy of the foregoing was electronically filed and served this 14th day of September, 2016, to:

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